



February 7, 2007

## HOUSE BILL No. 1038

DIGEST OF HB 1038 (Updated January 31, 2007 4:32 pm - DI 69)

**Citations Affected:** IC 35-42; noncode.

**Synopsis:** Battery by body waste. Makes it battery by body waste, a Class D felony, for a person to knowingly or intentionally in a rude, insolent, or angry manner place blood or another body fluid or waste on a probation officer, firefighter, or first responder (in addition to other law enforcement officers or corrections officers) while the victim is engaged in the performance of official duties. Enhances the penalties for committing battery by body waste if the body waste is infected with hepatitis C. (Current law enhances the penalty if the body waste is infected with hepatitis B, HIV, or tuberculosis.)

**Effective:** July 1, 2007.

**Tyler, Crouch, Kuzman, Hoy**

January 8, 2007, read first time and referred to Committee on Courts and Criminal Code.  
February 6, 2007, reported — Do Pass.

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February 7, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1038

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-42-2-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this  
3 section, "corrections officer" includes a person employed by:

4 (1) the department of correction;

5 (2) a law enforcement agency;

6 **(3) a probation department;**

7 ~~(3)~~ **(4)** a county jail; or

8 ~~(4)~~ **(5)** a circuit, superior, county, probate, city, or town court.

9 **(b) As used in this section, "firefighter" means a person who is**  
10 **a:**

11 **(1) full-time, salaried firefighter;**

12 **(2) part-time, paid firefighter; or**

13 **(3) volunteer firefighter (as defined in IC 36-8-12-2).**

14 **(c) As used in this section, "first responder" means a person**  
15 **who:**

16 **(1) is certified under IC 16-31 and who meets the Indiana**  
17 **emergency medical services commission's standards for first**

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1 **responder certification; and**

2 **(2) responds to an incident requiring emergency medical**  
3 **services.**

4 ~~(b)~~ **(d)** As used in this section, "human immunodeficiency virus  
5 (HIV)" includes acquired immune deficiency syndrome (AIDS) and  
6 AIDS related complex.

7 ~~(c)~~ **(e)** A person who knowingly or intentionally in a rude, insolent,  
8 or angry manner places blood or another body fluid or waste on a law  
9 enforcement officer, **firefighter, first responder**, or a corrections  
10 officer identified as such and while engaged in the performance of  
11 official duties or coerces another person to place blood or another body  
12 fluid or waste on the law enforcement officer, **firefighter, first**  
13 **responder**, or corrections officer commits battery by body waste, a  
14 Class D felony. However, the offense is:

15 (1) a Class C felony if the person knew or recklessly failed to  
16 know that the blood, bodily fluid, or waste was infected with:

17 (A) hepatitis B **or hepatitis C**;

18 (B) HIV; or

19 (C) tuberculosis;

20 (2) a Class B felony if:

21 (A) the person knew or recklessly failed to know that the  
22 blood, bodily fluid, or waste was infected with hepatitis B **or**  
23 **hepatitis C** and the offense results in the transmission of  
24 hepatitis B **or hepatitis C** to the other person; or

25 (B) the person knew or recklessly failed to know that the  
26 blood, bodily fluid, or waste was infected with tuberculosis  
27 and the offense results in the transmission of tuberculosis to  
28 the other person; and

29 (3) a Class A felony if:

30 (A) the person knew or recklessly failed to know that the  
31 blood, bodily fluid, or waste was infected with HIV; and

32 (B) the offense results in the transmission of HIV to the other  
33 person.

34 ~~(d)~~ **(f)** A person who knowingly or intentionally in a rude, an  
35 insolent, or an angry manner places human blood, semen, urine, or  
36 fecal waste on another person commits battery by body waste, a Class  
37 A misdemeanor. However, the offense is:

38 (1) a Class D felony if the person knew or recklessly failed to  
39 know that the blood, semen, urine, or fecal waste was infected  
40 with:

41 (A) hepatitis B **or hepatitis C**;

42 (B) HIV; or

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- 1 (C) tuberculosis;  
2 (2) a Class C felony if:  
3 (A) the person knew or recklessly failed to know that the  
4 blood, semen, urine, or fecal waste was infected with hepatitis  
5 **B or hepatitis C** and the offense results in the transmission of  
6 hepatitis B **or hepatitis C** to the other person; or  
7 (B) the person knew or recklessly failed to know that the  
8 blood, semen, urine, or fecal waste was infected with  
9 tuberculosis and the offense results in the transmission of  
10 tuberculosis to the other person; and  
11 (3) a Class B felony if:  
12 (A) the person knew or recklessly failed to know that the  
13 blood, semen, urine, or fecal waste was infected with HIV; and  
14 (B) the offense results in the transmission of HIV to the other  
15 person.  
16 SECTION 2. [EFFECTIVE JULY 1, 2007] **IC 35-42-2-6, as**  
17 **amended by this act, applies only to acts committed after June 30,**  
18 **2007.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1038, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

HOY, Chair

Committee Vote: yeas 11, nays 0.

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